HON'BLE SRI JUSTICE P.S. NARAYANA

+W.P.No. 393 of 2007

%09-10-2007

 # Y. Chennappa s/o late Y. Pedda Gangappa, aged about 60 years, F.P. Shop Dealer, Udumulakurthy village, Talupula Mandal, Anantapur District.

..... Petitioner

VERSUS

$ **1 The Joint Colledtor and Addl. District Magistrate, Anantapur,**
2. The RevenueDivisional Officer, Penukonda, Anantapur District.
3. The Mandal Revenue Officer, Talupula, Anantapur District.

.....Respondents

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> HEAD NOTE:

! **Counsel for petitioner : Mr. I. Gopala Reddy**
^ **Counsel for Respondents: G.P. FOR Civil Supplies**

? Cases referred
1. 2005(1) ALD 847

THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 393 of 2007

DATED: 9-10-2007

Between:-

Y. Chennappa.

…PETITIONER

And

The Joint Collector and Additional District Magistrate, Anantapur and 2 others..

…RESPONDENTS

THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 393 of 2007

O R D E R

Heard Sri I. Gopala Reddy, learned counsel representing the petitioner and the learned Assistant Government Pleader for Civil Supplies representing the respondents.

2. Rule Nisi was issued on 04-01-2007.

3. The writ petition is filed for issuance of a writ, order or direction declaring the action of the 2nd respondent i.e. Revenue Divisional Officer, Penukonda in suspending the Fair Price Shop Dealership of the petitioner as per orders in Rc. C. No. 144/2005 dated 21-02-2005 and continuance of the same indefinitely without holding any enquiry as illegal, arbitrary, opposed to the mandatory provisions of the Control Orders and contrary to the law laid down by this Hon'ble Court and also opposed to the principles of the natural justice and the said order is liable to be set aside and further issue directions to the respondents in the nature of Mandamus to permit the petitioner to function as F.P.Shop dealer of Udumulakurthy village, Talupula Mandal, Ananthapur District and pass such other appropriate orders.

4. It is stated that the petitioner is a Fair Price Shop dealer of Udumulakurthy village, Talupala Mandal, Anantapur District and he had been appointed as Fair Price Shop dealer in the year 1973 and ever since distributed the essential commodities to the cardholders of the village without complaint whatsoever either from the public or the authorities. It is also stated that the 3rd respondent- Mandal Revenue Officer is said to have surprised his fair price shop on 28-12-2004 and found certain irregularities in respect of Food For Work Rice and other essential commodities. It is also stated that in fact the petitioner visited the office of the 3rd respondent on 26-12-2004 for release order of the essential commodities and he attended the office of the 3rd respondent again on 27-12-2004 and that date the 3rd respondent orally asked him to furnish coupons relating to food for work programme rice on 28-12-2004 and also that he need not distribute the December Quota of P.D.S. rice to the cardholders and he can sell the same rice only after delivery of the coupons relating to food for work rice and that in spite of his oral representation and request, the 3rd respondent inspected his shop, seized the stock of PDS rice and other commodities and the 3rd respondent submitted a false report against him to the Revenue Divisional Officer, Penukonda i.e. 2nd respondent alleging irregularities against him.

5. It is further stated that the 2nd respondent by order dated 21-2-2005 ordered the suspension of his F.P. shop dealership with immediate effect from the date of the said order i.e. 21-2-2005. It is stated that the petitioner was not given any opportunity to submit his explanation to the alleged charges against him nor the R.D.O. conducted any enquiry and therefore the order of suspension of his F.P. shop dealership is illegal, opposed to principles of natural justice and the provisions of the Control Orders. It is further stated that as

against the orders of suspension, he preferred an appeal before the 1st respondent and as they stay orders were not granted pending appeal, he was advised by his counsel who appeared on his behalf in the appeal who advised that the appeal may be disposed of with a direction to the R.D.O. Penukonda for speedy completion of the disciplinary enquiry and accordingly a memo was filed before the 1st respondent and the 1st respondent by order dated 10-10-2006 directed the Revenue Divisional Officer, Penukonda to complete the enquiry pending before him within eight weeks from the date of receipt of the order and thereafter the R.D.O. issued a notice dated 10-12-2006 calling upon him to appear before him on 16-12-2006 and on that date he submitted a written explanation addressed to the Revenue Divisional Officer but the Revenue Divisional Officer had not considered his explanation nor conducted any further enquiry and no orders are passed till to date by the Revenue Divisional Officer, Penukonda.

6. Several other factual details also had been narrated in the affidavit filed in support of the writ petition.

7. The order made by the Joint Collector and Additional District Magistrate, Anantapur, in D.Dis No. K4/165/2005, dated 14-10-2006 reads as hereunder.

> "This is an appeal filed by Sri Y. Chennappa, F.P. Shop dealer of Udumulakurthi village, Talupula Mandal through his counsel against the orders of the Revenue Divisional Officer, Penukonda passed in Rc.No.144/2005 dated 21-02-2005 in suspending the F.P. shop dealership held by the appellant.
>
> The appellant has requested to set aside the orders of Revenue Divisional Officer, Penukonda passed in Rc. No. 144/2005 dated 21-02-2005 pending disposal of the appeal in the interest of justice.
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> Counsel for the appellant: Sri P.G.Vittal, Anantapur.
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> Upon perusing the grounds of appeal and orders of the Revenue

Divisional Officer, Penukonda the appeal was taken on file and request of the appellant for grant of stay was rejected vide Rc.No.K4/165/2005 dated 16-03-2005.

While the matter stood thus, the appellant has filed a Memo through his counsel requesting that the appeal may be taken as heard and dispose of the same with directions to the Revenue Divisional Officer, Penukonda for speedy completion of enquiry.

Upon perusing the memo filed by the counsel for the appellant and after hearing arguments of the advocate for appellant following order is made.

ORDER

The appeal was heard on 29-09-2006 and the Revenue Divisional Officer, Penukonda is directed to complete the enquiry pending before him within 8 weeks from the date of receipt of this order."

7. The main grievance of the petitioner is that despite specific directions made by the 1st respondent-the Joint Collector and Additional District Magistrate, Anantapur, the same had not been completed and there is inordinate delay.

8. Learned counsel for the petitioner placed strong reliance on the decision of this Court in **D.Sambasiva Rao v. Joint Collector, Guntur, Guntur District and Others**[1], wherein the learned Judge while dealing with the suspension of the authorization of Fair Price Shop dealership, when there is failure to conclude proceedings within time limit and the effect thereof, the authorization of the petitioner was suspended on 04-06-2004 by the 2nd respondent-RDO and on the same day show cause notice was issued and the petitioner preferred appeal to the 1st respondent-Joint Collector and the 2nd respondent did not conclude proceedings despite direction in remand order to complete them within one week, order of suspension made by the 2nd respondent is liable to be set aside. The learned Judge relied upon a decision in *1996 (1) APLJ-285 (The Joint Collector, Kurnool v. A.Neelima)*

9. In the light of the same, this Court is of the considered opinion that the order of suspension made by the 2nd respondent-R.D.O. is hereby set aside. It is needless to say that the respondents are at liberty to further proceed in this matter in accordance with law if the respondents choose to do so.

10. Accordingly, the writ petition is hereby allowed to the extent indicated above. No order as to costs.

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P.S. NARAYANA,J

Dated: 09-10-2007
Vp

Note:
Issue C.C. in 7 days
(B/o)

L.R. Copy to be marked

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[1] 2005 (1) ALD 847